

## **REMARKS**

This Response is submitted in reply to the Office Action dated July 20, 2007 in conjunction with a Request for Continued Examination, and together with a Petition for a Two Month Extension of Time to reply to the Office Action. Claims 94, 96, 100-103, 106, 109 and 110 have been amended. A Supplemental Information Disclosure Statement is submitted with this Response. No new matter has been added by such amendments. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing.

### **Priority**

Making reference to the August 6, 2007 Amendment, the Office Action notes that this application appears to claim subject matter disclosed in prior Application No. 10/795,337, filed February 27, 2001. Along the same lines, the Office Action describes what the Examiner considered to be an attempt to claim a priority benefit in such Amendment. Such Amendment, however, only added a Cross Reference to Related Applications section. As stated in such section, the applications listed in such section are commonly-owned, co-pending applications which are related to this application. They are related in terms of subject matter. Applicant did not intend to add any priority claims for this application by means of the Cross Reference to Related Applications section.

### **Claim Rejections – 35 U.S.C. §103**

The Office Action rejected claims 94-114 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,628,685 to Takemoto ("Takemoto") in view of U.S. Patent No. 5,429,361 to Raven ("Raven"). Applicant disagrees with, and traverses, such rejection.

The Office Action states the following:

Regarding a player database/profile, network access to player/profile and player tracking, it is notoriously well known by an artisan at a time prior to invention that a gaming club/hall track players [sic] game play via player club card for marketing and bonus redemption to maintain player loyalty to their club/hall and to provide a data storage device that maintains a plurality of player specific data so as to

associate a player's specific data with a particular player that may at least include address, name, club/hall account number and possibly financial data such as financial/bank account from which to draw funds or a credit value as pre-paid amount stored in player account. As evidence thereto, Raven discloses a card with processor and memory that tracks/stores player use, player account and credit balance that is cross-checked over a network to access player profile so as to verify validity of card and value on card (10:44-11:62, esp. 11:47-62) whereby the player card is in communication with a player tracking module (abstract, 2:16-19, 47-49, 4:49-51, 61, 5:25-27, 9:61-68, 10:34-35) in gaming club/hall system of game devices so as to obtain frequency of use or play for marketing and comp bonus purposes to maintain/encourage loyalty to the gaming club/hall. Thus, it would have been obvious to an artisan at a time prior to the invention to add instruction to enable processor to access over a network player-specific information stored in a data storage device, wherein the data storage device stores a plurality of difference sets of player-specific information each one of the sets being associated with a difference player, to access the set of player-specific information associated with the player who inserted the data card, part of a player tracking system/module, a player database and player-specific information includes data associated with a plurality of difference player profiles, instruction to enable processor to access over a network player-specific information stored in a data storage device the player specific information including data associated with at least one player profile, the player having a player profile, access over a network data associated with the player profile of the player, causing processor(s) to access over network a data storage device which stores player specific data associated with the player and player specific data associated with a plurality of other players as notoriously well known or as taught by Raven to Takemoto to permit tracking of player activity for marketing and allow comp bonus to player based on accumulated frequency of play data so as to maintain or encourage club loyalty and to store player data in database of player accounts for access to cross check for validity for improved security and to prevent fraud.

Applicant disagrees with such assertions, and Applicant disagrees with such Official Notices as described below. The Examination Guidelines for Determining Obviousness Under 35 U.S.C. in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.* ("KSR Guidelines"), published on October 10, 2007 by the United States Patent and Trademark Office, state that "[t]he gap between the prior art and the claimed invention must not be so great as to render the [claim] nonobvious to one reasonably skilled in the art." The KSR Guidelines also state that [w]hen considering obviousness of a combination of known elements, the operative question is

thus “whether the improvement is more than the predicable use of prior art elements according to their established functions.”

Applying the KSR Guidelines, Applicant submits that the gap between the prior art combination is too great to render the claimed invention obvious, in part, because the claimed invention yields unpredictable results. Raven discloses a gaming machine which operates with a player card used for player tracking purposes. Takemoto discloses a gaming machine which operates based on tokens. Takemoto also discloses a card issuing section which enables the player to exchange tokens for a play media data card. Takemoto’s play media data card stores data corresponding to the number of tokens turned in by the player. Accordingly, Takemoto’s gaming machine is operable with a play media data card which is used for the purpose of paying funds to the player.

Before the priority date of this application, the gaming industry used separate data management systems for managing player tracking data versus fund data. There were regulatory, accounting and other business reasons for managing these two types of data separately. The claimed invention involves a data card which is operable with both of these types of systems, providing a result which would not be predictable by the combination of Takemoto and Raven. At least for this reason, Applicant submits that the claimed invention yields an unpredictable result and defines a gap too great to render the claimed invention obvious.

In addition, the Office Action states that “it is notoriously well known that . . . possibly financial data such as financial/bank account from which to draw funds or a credit value as pre-paid amount stored in player account.” The “possibility” of something being known is not a disclosure of art. The art must be known or common knowledge in accordance with MPEP, Eight Edition, Revision No. 5, Section 2144.03 E). At least for this reason, the Office Action’s rejection is improper.

In addition, the Office Action states the following:

Regarding printing player specific information on data card; the human-readable symbol indicating at least a portion of the player-specific information and human readable graphics indicating at least a portion of the data associated with the player profile, it is notoriously well known for identification or charge, credit or debit card to include either printed or embossed user name and/or account number and generally both where at least account number is also stored on

magnetic strip or memory chip to access user account over network. The printed matter of name and/or account number on data card is provided for visual reference of owner of card or account number of user to verify ownership so as to provide security to prevent unauthorized user who is not owner from claiming ownership (i.e. stealing card or fraudulent use by non-owner).

Also, Raven lacks discussing printing player specific information on data card such as player name or account number printing user/player data on data carrier is so conventional as to be hornbook engineering that it is deemed implicit within Raven. As evidence only that printing player specific information on data carrier/card is conventional, note discussion above regarding credit or charge or debit card or, also see Bergeron (4764666, 6:00) or Benson (5814796, 3:59-61) or Saunders (6012832, 8:5-8, 30-34). Raven also includes storing credit on card and accessing player account over network (sic); thus, Raven either implicitly includes printing player specific information on data card such as player name and/or account number where at least account number is also stored on card electronically to permit electronic communication over network to access player account from game machine for the added security or, it would have been obvious to an artisan at a time prior to the invention to add printing player specific information on data card, the human-readable symbol indicating at least a portion of the player-specific information and human readable graphics indicating at least a portion of the data associated with the player profile as known in data carrier art to Raven for increasing security to visually verify ownership and to prevent another person falsely claiming ownership. It is reiterated as discussed above, Takemoto includes printing on data card at game machine that includes printing either on blank stock or on player held card.

Applicant disagrees with such assertions, and Applicant disagrees with such Official Notices as described below. The Office Action's reliance on a credit card or debit card is inadequate to render the claimed invention obvious. For security purposes, credit card manufacturers have restrictions regarding credit cards because credit cards are directly linked to financial institutions. The Office Action's proposed reliance upon a credit card together with Takemoto and Raven could create security issues for the credit card industry. Accordingly, the credit card teaches away from, and runs contrary to, the Office Action's proposed use with Takemoto and Raven. At least for this reason, Applicant submits that the Office Action's reliance upon a credit card or debit card is inadequate to support the Office Action's rejection.

### Office Action's Official Notices

The following provision of the Manual of Patent Examining Procedure is applicable to the Office Action's Official Notices:

Any rejection based on assertions that a fact is well-known or is common knowledge in the art without documentary evidence to support the examiner's conclusion should be judiciously applied. Furthermore, as noted by the court in *Ahlert*, any facts so noticed should be of notorious character and serve only to "fill the gaps" in an insubstantial manner which might exist in the evidentiary showing made by the examiner to support a particular ground for rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection is based. (MPEP, Eight Edition, Revision No. 5, Section 2144.03 E). (Emphasis Added).

The Office Action states that "[r]egarding a player database/profile, network access to player/profile and player tracking, it is notoriously well known by an artisan at a time prior to invention that a gaming club/hall track players [sic] game play via player club card for marketing and bonus redemption to maintain player loyalty to their club/hall and to provide a data storage device that maintains a plurality of player specific data so as to associate a player's specific data with a particular player that may at least include address, name, club/hall account number and possibly financial data such as financial/bank account from which to draw funds or a credit value as pre-paid amount stored in player account." (Emphasis Added).

The at least one instruction of the claimed invention is coupled to the player-specific information element and the data storage device element of the Prior Claims, and such elements are coupled to the thermal elements and other elements of the Prior Claims. Accordingly, such player-specific information and data storage device elements, as incorporated through each independent Prior Claim, are not notoriously well known. Furthermore, Applicant submits that the Office Action's Official Notice is improper because the "well known" conclusion of the Office Notice does not serve to "fill the gaps" in an insubstantial manner, as required by Section 2144.03 E of the MPEP. The Official Notice's conclusion is not insubstantial at least because of the relationship of the player-specific information and data storage device elements to the other

elements of the Prior Claims. Accordingly, if the Office Action maintains its rejection or reliance upon such Office Notice, Applicant respectfully requests the Examiner to produce proper authority for its first Official Notice.

The Office Action also states that "it would have been obvious to an artisan at a time prior to the invention to add instruction to enable processor to access over a network player-specific information stored in a data storage device, wherein the data storage device stores a plurality of difference sets of player-specific information each one of the sets being associated with a difference player, to access the set of player-specific information associated with the player who inserted the data card, part of a player tracking system/module, a player database and player-specific information includes data associated with a plurality of difference player profiles, instruction to enable processor to access over a network player-specific information stored in a data storage device the player specific information including data associated with at least one player profile, the player having a player profile, access over a network data associated with the player profile of the player, causing processor(s) to access over network a data storage device which stores player specific data associated with the player and player specific data associated with a plurality of other players as notoriously well known . . ." (Emphasis Added).

At least for the reasons provided with respect to the Office Action's first Official Notice, the conclusion of the second Official Notice is not insubstantial at least because of the relationship of the player-specific information and data storage device elements to the other elements of the Prior Claims. Accordingly, if the Office Action maintains its rejection or reliance upon the second Office Notice, Applicant respectfully requests the Examiner to produce proper authority for its second Official Notice.

Furthermore, the Office Action states that "[r]egarding printing player specific information on data card, the human-readable symbol indicating at least a portion of the player-specific information and human readable graphics indicating at least a portion of the data associated with the player profile, it is notoriously well known for identification or charge, credit or debit card to include either printed or embossed user name and/or account number and generally both where at least account number is also stored on

magnetic strip or memory chip to access user account over network.” (Emphasis Added).

At least for the reasons provided with respect to the Office Action’s first Official Notice, the conclusion of the third Official Notice is not insubstantial at least because of the relationship of the player-specific information and data storage device elements to the other elements of the Prior Claims. Accordingly, if the Office Action maintains its rejection or reliance upon the third Office Notice, Applicant respectfully requests the Examiner to produce proper authority for its third Official Notice.

Also, the Office Action states that “[a]lso, Raven lacks discussing printing player specific information on data card such as player name or account number printing user/player data on data carrier is so conventional as to be hornbook engineering that it is deemed implicit within Raven. As evidence only that printing player specific information on data carrier/card is conventional, note discussion above regarding credit or charge or debit card or, also see Bergeron (4764666, 6:00) or Benson (5814796, 3:59-61) or Saunders (6012832, 8:5-8, 30-34).” (Emphasis Added).

At least for the reasons provided with respect to the Office Action’s first Official Notice, the conclusion of the fourth Official Notice is not insubstantial at least because of the relationship of the player-specific information and data storage device elements to the other elements of the Prior Claims. Accordingly, if the Office Action maintains its rejection or reliance upon the fourth Office Notice, Applicant respectfully requests the Examiner to produce proper authority for its forth Official Notice.

### **Amendments**

Despite the forgoing traversal, Applicant has amended the Prior Claims to advance the prosecution of this application. Amended claim 94 recites “at least one instruction executable by the processor to: (a) apply any received currency toward at least part of the wager; (b) enable the processor to access, over a network, player-specific information stored in a data storage device; (c) enable the processor to access fund data over the network or another network, the fund data being: (i) stored in the data storage device or another data storage device; and (ii) associated with a data card

received through the data card acceptor; (d) cause the thermal energy director to cause a human-readable symbol to be produced and viewable on a data card received through the data card acceptor, the human-readable symbol indicating at least a portion of the player-specific information; (e) control movement of a data card from the data card acceptor to one of the data card holders, and (f) control movement of a data card from another one of the data card holders toward the data card acceptor.” At least for the reasons provided above, Takemoto and Raven do not separately or collectively disclose such elements.

Amended claim 102 recites “at least one instruction executable by the processor to: (a) apply any received currency toward at least part of the wager; (b) enable the processor to access, over a network, player-specific information stored in a data storage device, the player specific information including data associated with at least one player profile; (c) enable the processor to access fund data over the network or another network, the fund data being: (i) stored in the data storage device or another data storage device; and (ii) associated with a data card received through the data card acceptor; (d) after a designated event occurs, cause the data writer to change machine-readable data stored by a data card received through the data card acceptor; and (e) cause the thermal energy director to cause a human-readable symbol to be produced and viewable on the received data card after a designated event occurs, the human-readable symbol indicating at least a portion of the player-specific information; and (f) control movement of a data card from the data card acceptor to one of the data card holders, and (g) control movement of a data card from another one of the data card holders toward the data card acceptor.” At least for the reasons provided above, Takemoto and Raven do not separately or collectively disclose such elements.

Amended claim 109 recites “(b) receive any currency from the player; (c) apply any received currency toward at least part of the wager; (d) cause machine-readable data to be stored by any data card received from the player; (e) access, over a network, data associated with the player profile of the player; (f) access fund data over the network or another network, the fund data being associated with the received data card; (g) after a designated event occurs, cause heat to be directed toward the received data



card to cause human-readable graphics to be produced and viewable on the received data card , the human-readable graphics indicating: (i) at least a portion of the data associated with the player profile, and (ii) at least a portion of the machine-readable data stored by the data card; (h) store the received data card in a first data card holder after a first event occurs; and (i) dispense a data card from a second data card holder after a second event occurs.” At least for the reasons provided above, Takemoto and Raven do not separately or collectively disclose such elements.

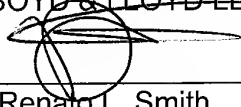
For the foregoing reasons, Applicants submits that all of the claims are in condition for allowance.

An earnest endeavor has been made to place this application in condition for formal allowance and is courteously solicited. If the Examiner has any questions regarding this Response, Applicants respectfully request that the Examiner contact the undersigned.

Respectfully submitted,

BELL, BOYD & LLOYD LLP

BY



Renato L. Smith  
Reg. No. 45,117  
Cust. No. 29159

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